

AMENDED IN ASSEMBLY MARCH 31, 2016

AMENDED IN ASSEMBLY SEPTEMBER 3, 2015

SENATE BILL

No. 726

Introduced by Senator Hueso

February 27, 2015

An act to ~~amend Section 25400 of, and to add Section 25401.2 to, to~~ the Corporations Code, relating to corporate securities.

LEGISLATIVE COUNSEL'S DIGEST

SB 726, as amended, Hueso. Corporate securities: unlawful conduct.

(1) The Corporate Securities Law of 1968 generally regulates the offer and sale of corporate securities within the state, and specifically makes specified conduct with regard to the offer and sale of corporate securities unlawful. *That law provides that any willful violation of that law is a crime.*

This bill would make it unlawful for any person, directly or indirectly, in this state, ~~for a consideration, received directly or indirectly from a broker-dealer or other person selling or offering for sale or purchasing or offering to purchase the security, to employ, hire, or pay any 3rd party to induce action by any state government official and prohibiting that 3rd party from disclosing on whose behalf the 3rd party is acting.~~ The bill would also make it unlawful for any person, in connection with the offer, sale, or purchase of a security, directly or indirectly, to make a false or misleading statement to any state government official in order to cause an investigation of a public company. *state to knowingly make an untrue statement of material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which the statements are made, not misleading, to any state government official with the intention of inducing an*

investigation of a publicly traded company for the purpose of manipulating the value of a security of that publicly traded company for financial gain.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25401.2 is added to the Corporations
2 Code, to read:

3 25401.2. It is unlawful for any person, directly or indirectly,
4 in this state to knowingly make an untrue statement of material
5 fact or omit to state a material fact necessary in order to make the
6 statements made, in light of the circumstances under which the
7 statements are made, not misleading, to any state government
8 official with the intention of inducing an investigation of a publicly
9 traded company for the purpose of manipulating the value of a
10 security of that publicly traded company for financial gain.

11 ~~SECTION 1. Section 25400 of the Corporations Code is~~
12 ~~amended to read:~~

13 ~~25400. It is unlawful for any person, directly or indirectly, in~~
14 ~~this state:~~

15 ~~(a) For the purpose of creating a false or misleading appearance~~
16 ~~of active trading in any security or a false or misleading appearance~~
17 ~~with respect to the market for any security, (1) to effect any~~
18 ~~transaction in a security which involves no change in the beneficial~~
19 ~~ownership thereof, or (2) to enter an order or orders for the~~
20 ~~purchase of any security with the knowledge that an order or orders~~
21 ~~of substantially the same size, at substantially the same time and~~
22 ~~at substantially the same price, for the sale of any such security,~~
23 ~~has been or will be entered by or for the same or different parties,~~
24 ~~or (3) to enter an order or orders for the sale of any security with~~
25 ~~the knowledge that an order or orders of substantially the same~~

1 size, at substantially the same time and at substantially the same
2 price, for the purchase of any such security, has been or will be
3 entered by or for the same or different parties.

4 (b) To effect, alone or with one or more other persons, a series
5 of transactions in any security creating actual or apparent active
6 trading in such security or raising or depressing the price of such
7 security, for the purpose of inducing the purchase or sale of such
8 security by others.

9 (c) If such person is a broker-dealer or other person selling or
10 offering for sale or purchasing or offering to purchase the security,
11 to induce the purchase or sale of any security by the circulation or
12 dissemination of information to the effect that the price of any
13 such security will or is likely to rise or fall because of market
14 operations of any one or more persons conducted for the purpose
15 of raising or depressing the price of such security.

16 (d) If such person is a broker-dealer or other person selling or
17 offering for sale or purchasing or offering to purchase the security,
18 to make, for the purpose of inducing the purchase or sale of such
19 security by others, any statement which was, at the time and in the
20 light of the circumstances under which it was made, false or
21 misleading with respect to any material fact, or which omitted to
22 state any material fact necessary in order to make the statements
23 made, in the light of the circumstances under which they were
24 made, not misleading, and which he knew or had reasonable ground
25 to believe was so false or misleading.

26 (e) For a consideration, received directly or indirectly from a
27 broker-dealer or other person selling or offering for sale or
28 purchasing or offering to purchase the security, to do either of the
29 following:

30 (1) To induce the purchase or sale of any security by the
31 circulation or dissemination of information to the effect that the
32 price of such security will or is likely to rise or fall because of the
33 market operations of any one or more persons conducted for the
34 purpose of raising or depressing the price of such security.

35 (2) To employ, hire, or pay any third party to induce action by
36 any state government official and prohibiting that third party from
37 disclosing on whose behalf the third party is acting.

38 SEC. 2.—Section 25401.2 is added to the Corporations Code,
39 to read:

1 ~~25401.2. It is unlawful for any person, in connection with the~~
2 ~~offer, sale, or purchase of a security, directly or indirectly, to make~~
3 ~~a false or misleading statement to any state government official in~~
4 ~~order to cause an investigation of a public company.~~

5 ~~SEC. 3.~~

6 *SEC. 2.* No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.